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MEMO ENDORSED

BY FACSIMILE

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Gregory Kleine v. City of New York et al., 07 CV 5887 (PKC)

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced action, I write in advance of plaintiff's anticipated motion to compel the videotaped depositions of Officers Leonardo Moscoso and Michael Rhome on February 27, 2008 and to respectfully request the Court's permission to reschedule the aforementioned depositions to a date and time after defendants have submitted their motion pursuant to Fed. R. Civ. P. 26(c) and 30(b)(3)(A) seeking a protective order with respect to the aforementioned officers' depositions in this matter.

As an initial matter, I apologize to the Court for the late submission of this application, however, I only learned on February 25, 2008 at the conclusion of plaintiff, Gregory Kleine's deposition, that plaintiff's counsel intended to conduct videotaped depositions of Officers Moscoso and Rhome on February 27, 2008. Furthermore, following plaintiff's deposition, plaintiff's counsel forwarded me a draft of his anticipated motion to compel Officers Moscoso and Rhome's videotaped deposition on February 27, 2008.

As background, plaintiff alleges, *inter alia*, that on May 4, 2007, New York City Police Officers Rhome and Moscoso employed excessive force to falsely arrest him in violation of his federal constitutional rights. Fact discovery is scheduled to conclude on June 13, 2008.

There are several reasons for this request. First, defendants' anticipated motion pursuant to Fed. R. Civ. P. 26(c) and 30(b)(3)(A) seeking a protective order precluding a videotaped deposition of Leonardo Moscoso and Michael Rhome and alternatively limiting the use and dissemination of any videographic recordings of these depositions is well grounded and meritorious. Officer Moscoso currently works as an undercover police officer on the New York

The parties are directed to follow the procedure set forth in my Order of June 9, 2008 (No. 15) for the all future discovery disputes. If there is not agreement to proceed on a non-videotaped deposition then the deposition is stayed pending the ruling on an application submitted by joint letter.

February 26, 2008

[Signature]
USDT

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